

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SETH JAMES CURRAN,

Petitioner,  
v.

JEFFREY A. UTTECHT,

## Respondent.

CASE NO. C19-5381 BHS

## ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation ("R&R")

of the Honorable David W. Christel, United States Magistrate Judge, Dkt. 18, Petitioner

Seth James Curran's ("Curran") objections to the R&R, Dkts. 19, 20, and Curran's

motion to compel, Dkt. 21.

On July 31, 2019, Judge Christel issued the R&R recommending that the Court

dismiss Curran's petition without prejudice for failure to exhaust. Dkt. 18. On August

11 and 14, 2019, Curran filed objections. Dkts. 19, 20. On August 27, 2019, Curran

filed a motion to compel. Dkt. 22.

The district judge must determine de novo any part of the magistrate judge's

disposition that has been properly objected to. The district judge may accept, reject, or

modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

In this case, Curran contests the well-settled and binding precedent that he must exhaust his state court remedies before seeking relief in a federal habeas petition. Dkt. 17. Curran’s argument do not persuade the Court to carve out an exception to “one of the pillars of federal habeas corpus jurisprudence.” *Calderon v. U.S. Dist. Court for N. Dist. of California*, 134 F.3d 981, 984 (9th Cir. 1998). Curran’s motion to compel is similarly frivolous. Therefore, the Court having considered the R&R, Curran’s objections, and the remaining record, does hereby find and order as follows:

- (1) The R&R is **ADOPTED**;
- (2) Curran's petition is **DISMISSED without prejudice**;
- (3) Curran's motion to compel, Dkt. 21, is **DENIED**;
- (4) A Certificate of Appealability is **DENIED**; and
- (5) The Clerk shall enter a JUDGMENT and close the case.

Dated this 7th day of October, 2019.

  
BENJAMIN H. SETTLE  
United States District Judge